

**EXHIBIT B: PLAINTIFF AFFIDAVITS**

## AFFIDAVIT OF TRUTH AND VERITY

I, Richard Stanton Whitman, do hereby swear and/or affirm, under penalty of perjury, that the facts and/or allegations contained in this affidavit are true to the best of my knowledge.

- 1.) I have exhausted all state remedies related to my grievances and complaints related to Ohio Department of Rehabilitation and Corrections new policy concerning the handling of inmate legal mail. (see **Exhibit E**)
- 2.) I have informed the institutional mail room here at Belmont Correctional Institution that I was not willing to opt-in to the new inmate legal mail policy. Pursuant the recent decision by the Sixth Circuit Court of Appeals pertaining to the Ohio Legal Mail Policy see; *Rodgers v. Driesbach*, 2021 U.S. Dist. LEXIS 42280, \*4-6, 2021 WL 854971 (S.D. Ohio March 8, 2021)
- 3.) Myself and Joseph Shine-Johnson stopped Warden David W. Gray on the yard while coming out of the law library sometime in October 2021 and questioned him about the new legal mail policy. I showed Warden Gray the most recent example post marked Oct. 5, 2021, Warden Gray responded that the mailroom staff was not copying legal mail from the court and if they did it was an accident because the mail got mixed up with regular mail. Defendant Gray is aware that this policy violates the first amendment but has failed to correct the violation and still follows this policy to date. (See **Exhibit B**)
- 4.) I have informed the institutional mail room that it was a violation of my First Amendment Rights to privacy in all my legal matters for the mail room to open my legal mail outside of my presence and to copy my legal mail for delivery to me as though it was normal incoming mail. (see **Exhibit E**)

- 5.) I attempted to resolve this issue through the institutional grievance process and appeal process, I also wrote a complaint to the Correctional Institution Inspection Committee **(Exhibit E)** and I attempted to obtain an Order of Protection from the Northern District Ohio who Denied my Motion **(Case: 5:19-cv-0181-JG ECF Doc #: 59 Page ID #: 2283-2286)**
- 6.) I am a clerk in the law library and speak with people on a daily basis about how the new mailroom policy is having negative effect on their ability to communicate with their counsel for appeals, filing their notice of appeals on time or responding to the governments filings or court orders.
- 7.) I have experienced delays in receiving my legal mail, missing pages and/or had legal mail packages sent back to the source with no notice that the package had been received and sent back.

Please see exhibit **(C)** copy of envelope from Clements Law P.A. in De Land FL marked as copied by the mailroom on April 25, 2022 and **(Affidavit example 1A)** copy of the first page of the correspondence from Attorney Clements corroborating the claim that he had mailed out requested information but that the prison returned them to his office.

Please take note that this letter from Attorney Clements was dated April 11, 2022 showing that it took 14 days to arrive and be copied by the mailroom and delivered to me

Exhibit **(C)** is a copy of the envelope of a notice mailed to me post marked March 29, 2022 and copied April 6, 2022 showing a week to be received, copied and provided to me, Exhibit **(C)** is a copy of an envelope shown as post marked on the 26<sup>th</sup> of April and copied for delivery to me on April 28<sup>th</sup> showing only 2 days to be received, copied and provided to me, this legal mail package was missing page 2 of 3 pages mailed out.

- 8.) I am a party in an open civil suit **2:20-cv-05919** to which I have not received ECF #68 and the District Courts are forcing us to file a separate law suit in order to address these clear violations of our rights to privacy in our legal matters.
- 9.) I have an appeal pending in the 6<sup>th</sup> Circuit Court of Appeals case number 21-3858
- 10.) I fear that I will be subject to harassment and retaliation for complaining about this new unconstitutional policy.
- 11.) I have not signed any Legal Mail Log Sheets for the receipt of any copied Legal Mail packages.

Richard Stanton Whitman

Richard S. Whitman

A-694-724

Belmont Correctional Inst.

P.O. Box 540

St. Clairsville, OH 43950

Notary Public

Sworn to Before Me and subscribed in my presence this 5<sup>th</sup> day of August, 2022.

Notary Public

My Commission Expires

July 19, 2025



JAMES CARL COVEY  
Notary Public  
State of Ohio  
My Comm. Expires  
July 19, 2025

## AFFIDAVIT OF TRUTH

I, Joeseeph Shine-Johnson, swear and certify under the penalty of perjury, that the forgoing sworn statements, allegations and averments are true and correct to the best of my knowledge and based upon those I declare to be true. I am aware of perjury and any false statement(s) made by me subjects me to the penalty of perjury.

1. My Incoming legal mail has been opened outside of my presence on multiple occasions.  
The incoming legal mail has been re-classed as regular mail, delayed, opened outside of their presence, read, and copied, altered, lost or destroyed and/or kept.
2. I have not signed my signature for any of the legal mail that has been re-classed as regular mail. If my name is found on any of the mail logs for the dates in paragraph 7 which my legal mail was opened outside of my presence, it was done fraudulently.
3. Approximately October 8th 2021, Richard Stanton Whitman and I stopped Warden Gray on the yard while coming out of the law library and began questioning him about the new legal mail policy and the Mail being re-classed as regular mail and opened outside of our presence and being copied. Warden Gray responded that the mailroom staff “was not copying legal mail that were clearly marked as from the court and if they did it was an accident and isolated incident, simply because the legal mail probably got mixed up with regular mail.”
4. I gave notice to the Belmont Correctional Institution Mailroom that I did not want my mail to be opened outside of my presence in compliance with the Sixth Circuit ruling in Knop v. Johnson, 977 F.2d 996, 1012 (6th Cir. 1992) on October, 17 2021. ) It is unclear which mailroom staff members processed the legal mail outside of my presence

because the staff members rotate. The Institution has kept me from discovering that information but has only allowed for me to discover the names of the mailroom staff.

5. The Mailroom Policy is unconstitutional and/or being unconstitutionally applied.
6. My legal mail was opened outside of my presence multiple times and I filed Informal complaint, grievances On October 15<sup>th</sup>, 2021 and On December, 14<sup>th</sup>, 2021 that were denied by Institutional Inspector Patrick Haley On October, 20<sup>th</sup>, 2021 and on December 22<sup>th</sup>, 2021. I Appealed those decisions and the appeal was denied by Marc Bratton. (See **Exhibit A**)
7. My Incoming Legal mail from the courts is being consistently being re-classed as regular mail, delayed, opened outside of their presence, read, and copied, altered, lost or destroyed and/or kept by the institution on October 13<sup>th</sup>, 2021 and October 18<sup>th</sup>, 2021 and October 29<sup>th</sup>, 2021, November 19<sup>th</sup> 2021 December 13<sup>th</sup> 2012, December 15<sup>th</sup>, 2021, December 20<sup>th</sup>, 2021, December 22<sup>nd</sup>, 2021. Most recently January, 4<sup>th</sup>, 2022, January 11<sup>th</sup>, 2022, January, 13<sup>th</sup>, 2022, March, 15<sup>th</sup>, 2022, April, 06, 2022, April, 28, 2022, April, 29, 2022. (See **Exhibit C**)
8. The Mail room staff or prison officials have not produced or presented a warrant for probable cause to open my incoming privileged legal mail on any date.
9. I have not been placed under investigation for any reason. My legal mail poses no security threat to BECI.
10. Annette Chambers- Smith, Warden David Gray their successors in office, agent, and employees and all other persons acting in concern and participation with them, are fully aware that my privileged mail may be inspected for contraband, but only in the prisoner's presence. These defendants are responsible for the opening of my legal mail outside of

my presence and my mail being re-classed as regular has affected my ability to put forth my legal actions. In my open civil action case No. **2:20-CV-05919**, against Annette Chambers- Smith, Warden David Gray. A judicial decision/order was decided on March 4<sup>th</sup> 2022. The envelope was stamped March, 4<sup>th</sup> 2022. The mail was marked received and copied on March, 15<sup>th</sup>, 2022. There was an eight-day delay in processing the mail. There was a fourteen-day deadline for this response, this creates the probability that my future legal mail will be opened and my future litigations will be obstructed, impeded or frustrated and deny me access to the courts due to undue delay, and deliberate indifference. (See Exhibit C)


11. In my open civil suit case No. **2:20-CV-05919**, as a direct result of this mailing policy. I have NOT received ECF NO. 68 which was an order in regards to a temporary injunction. I've waited months for the response to this motion and never received it. I did not find out the motion was even ruled on until the magistrate's order ECF. No.77. This has directly affected my ability to litigate his civil action, denying me access to the court to respond to this specific court order. I was prevented from raising objections, reconsideration, or request a certificate of appealability, etc. I tried to address this issue inside of my pending civil action case No. **2:20-CV-05919**, but magistrate Preston-Devers refuses to address the issue directed the plaintiff to file and pay for separate suit. (See Exhibit, E)

12. I have an honest belief that the defendants Annette Chambers- Smith, Warden David Gray their successors in office, agent, and employees and all other persons acting in concert and participation with them, are purposely impeding and frustrating my pending civil action Case No. **2:20-CV-05919**, in the guise of following the new ODRC policy to

get an unfair advantage by having the lower staff read my legal mail being re-classed and screened as regular mail.

13. I fear for retaliation for using the grievance procedures and complaining about my constitutional rights as a prisoner being deliberately violated, because the defendants in this suit are high ranking prison officials and have the ability to adeptly used the process against me to harass and retaliate against me in the guise of using their proper authority via administrative rules and prison specific policies. Many of the staff members are friends and have personal relationships with one another outside of the work place and their friends could decide to retaliate against me based on that personal relationship.

RESPECTFULLY SUBMITTED,

  
Joeseeph Shine-Johnson A734401

Sworn to, or affirmed and subscribed in my presence this 17<sup>th</sup>, day of, August, 2022



NOTARY PUBLIC



SHANE M KILDOW  
Notary Public  
State of Ohio  
My Comm. Expires  
June 6, 2026

My commission expires \_\_\_\_\_

Joeseeph Shine-Johnson #A734401